

REMARKS

The Office Action, dated May 6, 2008 has been carefully considered and Applicants respectfully request that the Office reconsider the instant application in of any amendments made to the claims and for the remarks presented, herein.

Claims 1-11 are pending. Claims 1-6 and 8-11 stand rejected. Claim 7 has been indicated to be allowable. Claims 1, 10 and 11 are independent claims. Claims 1, 3, 8, 10 and 11 have been amended.

Applicant, through his representative, wishes to thank the Examiner for the indication of allowable subject matter in claim 7. However, applicant has elected to amend the independent claims in a manner form to clarify the invention claimed. Hence, applicant believes that all the claims are now in allowable form.

The Office has rejected claims 1-6 and 8-11 as being anticipated, under 35 USC 102(e), by Klee (USPPA 2001/0048352).

In rejecting the independent claim 1, the Office Action refers to Figure 1 of Klee for teaching all the elements recited in the claims.

Klee discloses a tunable filter arrangement, illustrated in Figure 1, wherein a bottom electrode (5) is positioned in part on a reflective layer (2), piezoelectric layer on a portion of the bottom layer and a top layer (7) positioned, in part, on the piezoelectric layer and, in part, on the reflective layer. Klee further discloses a dielectric layer positioned on the portion of the top layer positioned on the reflective layer.

The Office Action, in rejecting the claims, refers to this portion of the top layer covered by the dielectric layer as being the region of non-overlapping of the top and bottom layers.

Applicant respectfully disagrees with the reason for the rejection of the claims. However, the independent claims have been amended to provide clarity to the invention claimed in that the claims have been amended to further recite that the bottom layer is deposited on a portion of the reflective layer and a dielectric is deposited on a remaining portion of the reflective layer and that the top layer is deposited above the dielectric layer

and a portion of the bottom layer. No new matter has been added. Support for the amendment may be found at least in Figures 8-14 of the instant application.

Each of the independent claims now explicitly recites that the non-lapping region is at least between the bottom and top layer and not a disjoint region that exists in the position of the top and bottom layers. Klee fails to disclose that the non-overlapping region exists between the bottom and top layer, as is now recited in the claims.

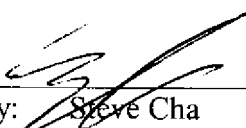
A claim is anticipated if and only if all the elements recited in the claims are disclosed in a single prior art reference. In this case, Klee cannot be said to anticipate the subject matter claimed in the independent claims, as Klee fails to disclose each of the elements recited therein.

With regard to the remaining claims, these claims dependent from the independent claims and, hence, are also not anticipated by Klee for the same reasons.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,
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